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304.01.05C EFFECTIVE DATE OF OBRA-93 TRANSFER POLICY

All transfers made on or after August 11, 1993, are treated under OBRA-93 rules with DRA amendments effective February 8, 2006. Transfers made before August 11, 1993, are treated under policy in effect prior to OBRA-93.

While this section applies to transfers made on or after August 11, 1993, penalties for transfers for less than fair market value under OBRA-93 cannot be applied to services provided before October 1, 1993. Apply pre-OBRA-1993 rules regarding transfers of assets to transfers made on or after August 11, 1993, and before October 1, 1993.

As indicated above, the effective date of all DRA changes is February 8, 2006. Assets disposed of on or after February 8, 2006, will be evaluated under OBRA-93 and any changes mandated by the DRA. The DRA changes are noted.

Individuals to Whom Transfer of Assets Applies

Apply these provisions when an institutionalized individual, HCBS waiver individual or the individual's spouse disposes of assets for less than fair market value on or after the look-back date explained below. For purposes of this section, assets transferred by a parent, guardian, court or administrative body, or anyone acting in place of or on behalf of or at the request or direction of the individual or spouse are considered to be transferred by the individual or spouse.

Verification and Documentation

In addition to the initial application, look for a transfer of assets at the time of review, when a transfer is reported, or when there is a request for a change to institutional or HCBS coverage. When there has been a transfer of assets during the look-back period, obtain the following documentation:

- A description of the asset transferred (the home, other real property, life estate, cash, lump sum, car, stocks, bank account, certificate of deposit, etc.).
- The name of the person who transferred the asset (client, spouse, legal representative).

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Verification and Documentation (Continued)

- The name of the person(s) to whom the asset was transferred.
- The client's relationship to the individual to whom the asset was transferred.
- The countable value of the asset at the time of the transfer and the compensation (money or other benefit) received or expected to be received from the transferred asset.
- The date the asset was transferred.
- Whether the applicant was the sole owner of the asset at the time of the transfer; if not the name of any co-owners.
- If applicable, documentary evidence that the individual intended to dispose of an asset at fair market value or information from knowledgeable sources to support the value (if any) at which the asset was disposed.